



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,119	01/26/2001	Brant Monson	1082.BMON.PT	7002

7590 03/23/2004
Randall B. Bateman
P.O. Box 1319
Salt Lake City, UT 84110-1319

EXAMINER

COLLINS, GIOVANNA M

ART UNIT	PAPER NUMBER
----------	--------------

3672

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/771,119

Applicant(s)

MONSON, BRANT

Examin r

Giovanna M. Collins

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12-15, 17-29 and 33-35 is/are rejected.
- 7) ☒ Claim(s) 7-11, 16 and 30-32 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Amendment

1. The declaration under 37 CFR 1.132 filed November 28, 2003 is insufficient to overcome the rejection of claims 1-6, 12-15, 17-29 and 33-35 based upon Gogan et al. ('232) in view of Weiss, as set forth in the last Office action because: The declaration fails to give the names and job positions of the persons which were spoken to at Harley Davidson. The declaration also does not disclose any reasons as to why a linear locking device was not suitable on the motorcycle accessory.

In view of the foregoing, when all of the evidence is considered, the totality of the rebuttal evidence of nonobviousness fails to outweigh the evidence of obviousness.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-6, 12-15, 17-19 and 21-29, 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gogan et al. ('232) in view of Weiss ('021).

Gogan et al. disclose (see Figs. 2 and 9) a quick release system for mounting a backrest on a motorcycle, the system comprising a side bracket plate (26) having a first notch (see Fig. 8 at 48) extending inwardly generally horizontally from an end of the side bracket plate, and a second notch (see Fig. 1, at 50) extending generally upwardly into the side bracket plate from a

Art Unit: 3672

bottom thereof, the first and second notches being configured to receive a bolt head. Gogan does disclose a retaining means (56) mounted to the side bracket plate for selectively allowing movement of a bolt head into the second notch but does not disclose that it is slidable. Weiss teaches (see Fig. 1) a linear slidable retaining means (5) that mounted to a side bracket plate (1) for selectively allowing movement of tubular member (21) into a notch (at 31). Weiss teaches that the retaining means is has a relatively low cost and has improved safety features to prevent unintentional uncoupling (see col. 1, lines 5-8). As it would be advantageous to prevent unintentional uncoupling of the retaining means, it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Gogan et al. to have the slidable retaining means taught by Weiss.

Referring to claim 2, Gogan et al. does not disclose at least one semi –circular grommet. Weiss teaches at least one semi-circular grommet (at 2) disposed along one of the notches. The semi-circular grommet is thicker and thereby strengthens the area around the notch. As it would be advantageous to have the notch are to be strengthen it would be obvious to one skilled in the art to modify the system disclosed by Gogan et al. to include the semicircular grommet as taught by Weiss.

Referring to claim 3, Weiss teaches wherein the slidable retaining means (at 5) comprises a retaining pin (5) slidable between a first position (at 17), wherein the pin prevents movement of a tubular member out of a notch, and a second position (at 19), wherein the retaining pin does not prevent movement of a bolt head and out of the second notch.

Referring to claim 4, Weis teaches wherein the retaining pin (5) is biased into the first position (see col. 1, lines 36-40).

Referring to claim 5, Weiss teaches a handle (14) attached to the retaining pin such that movement of the handle away from a second notch moves the retaining pin from the first position to a second position.

Referring to claim 6, Weiss teaches a locking means (at 19 and 20).

Referring to claim 12, Weiss teaches a locking means (at 19 and 20).

Referring to claim 13, Weiss teaches the locking means comprises a locking pin (14).

Referring to claim 14, Weiss teaches a locking hole (17) the locking pin (14) extends into a locking hole to prevent movement of the retaining means.

Referring to claim 15, Weiss teaches a locking notch (17) that the locking pin (14) extends into to prevent movement of the retaining means.

Referring to claim 17, Gogan et al. disclose at least one bolt (20), the bolt having a bolt head with a generally annular channel formed therein (see fig. 3, at 21), the bolt head being configured for nesting in the second notch.

Referring to claim 18, Gogan et al. disclose two bolts (at 20 and at 18) each having a generally annular channel formed therein and each being configured for nesting in one of the first and second notches.

Referring to claim 19, Gogan et al., as modified, discloses the quick release system according to claim 17 but does not disclose wherein the bolt head further comprising a second annular channel. However, duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Therefore it would be obvious to one skilled in the art at the time of the invention to further modified the release system disclosed by Gogan et al. to have a second annular channel

Art Unit: 3672

on the bolt head because duplicating the components of a prior art device is a design consideration within the skill of the art.

Referring to claim 21, Gogan et al. disclose a side bracket plate (26) for use in a backrest quick release system, the side bracket plate comprising a first notch (at 48) configured for receiving a bolt head; a second notch (at 50) having an opening and being configured for receiving a bolt head. Gogan et al. disclose a retaining means but do not disclose that the retaining means is a retaining pin. Weiss teaches a retaining pin (5) positioned adjacent to a notch (at 21), the retaining pin being movable between a first position wherein the retaining pin prevents a tubular member disposed in the notch from being removed from the second notch, and a second position wherein the retaining pin does not prevent removal of the tubular member. Weiss teaches that the retaining means is relatively low cost and has improved safety features to prevent unintentional uncoupling (see col. 1, lines 5-8). As it would be advantageous to prevent unintentional uncoupling of the retaining means, it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Gogan et al. to have the slidable retaining means taught by Weiss.

Referring to claim 22, Weiss teaches wherein the retaining pin (5) is spring loaded (at 8).

Referring to claim 23, Weiss teaches a handle (14) attached to the retaining pin (33) for selectively moving the retaining pin between the first and second positions.

Referring to claim 24, Weiss teaches a locking means (at 17) for selectively preventing movement of the retaining pin for the first position to the second position.

Referring to claim 25, Weiss teaches a locking means comprises a locking pin (14) configured to engage a side bracket plate.

Referring to claim 26, Weiss teaches a bracket plate that has a locking hole (at 17) and a locking pin (14) is configured for placement into the locking hole.

Referring to claim 27, Weiss teaches a bracket plate that has a locking notch (at 17) and a locking pin (14) is configured for placement into the locking notch.

Referring to claim 28, Gogan et al. discloses a quick release system for mounting a back rest on a motorcycle, comprising a side bracket plate (58) having a first forward notch (at 72) generally horizontally from an end of the side bracket plate and a second notch (at 76) disposed adjacent a back end of the side bracket, extending generally upwardly into the side bracket plate from a bottom thereof, the first and second notches being configured to receive a bolt head. Gogan et al. disclose a retaining means (86) but do not disclose a slidable retaining pin. Weiss teaches a retaining pin (5) positioned adjacent to a notch (at 21), the retaining pin being movable between a first position wherein the retaining pin prevents a tubular member disposed in the notch from being removed from the second notch, and a second position wherein the retaining pin does not prevent removal of the tubular member. Weiss teaches that the retaining means is relatively low cost and has improved safety features to prevent unintentional uncoupling (see col. 1, lines 5-8). As it would be advantageous to prevent unintentional uncoupling of the retaining means, it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Gogan et al. to have the slidable retaining means taught by Weiss.

Referring to claim 29, Weiss discloses a locking member (at 17) for preventing movement of the retaining pin into the second position.

Referring to claim 33, Weiss discloses a handle (14) that slides along the side bracket plate.

Referring to claim 34, Gogan et al. discloses a quick release system comprising a side bracket plate (26) configured for holding a back rest of a motorcycle, the side bracket plate having a first notch (see Fig. 8, at 48) and a second notch (see Fig. 1, at 50) formed therein each for receiving a bolt head. Gogan does not disclose a slidable retaining pin, Weiss teaches a slidable retaining pin (5) disposed adjacent a notch and movable between a first position (at 17) where the retain pin prevents movement of a tubular member out of a notch to a second position (at 19) allowing removal of a tubular member out of the notch. Weiss teaches that the retaining means is relatively low cost and has improved safety features to prevent unintentional uncoupling (see col. 1, lines 5-8). As it would be advantageous to prevent unintentional uncoupling of the retaining means, it would be obvious to one skilled in the art at the time of the invention to modify the quick release system disclosed by Gogan et al. to have the slidable retaining means taught by Weiss.

Referring to claim 35, Weiss teaches a locking member for preventing movement of the slidable retaining pin into the second position.

2. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gogan et al. ('232) in view of Weiss ('021) as applied to claim 17 above, and further in view of Albrecht ('405).

Gogan et al., modified, disclose the quick release system according to claim 17, but does not disclose wherein the bolt head further comprises female threaded portion. Albrecht teach

(see Fig. 3) a bolt head (10) that comprises a female threaded portion (18). Albrecht further teach that such bolts are common in the art (see col. 1, lines 54-55). The Albrecht reference would suggest that one of ordinary skill in the art would be familiar with the use of a bolt with a female threaded portion. Therefore it would be obvious for one skilled in the art at the time of the invention to modify the bolt disclosed by Gogan et al. to have a female threaded portion as taught by Albrecht.

Allowable Subject Matter

Claims 7-11,16,30-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

In response to the argument concerning declaration in reference to Harley Davidson, No name and job position were given concerning the people who were spoken to at Harley Davidson. Furthermore, no facts were given as to why a sliding lock mechanism was unsuitable for use on a motorcycle accessory.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Art Unit: 3672

The Gogan reference discloses a bracket with one type of latching mechanism to attach the bracket to a motorcycle. Weiss teaches a latching mechanism that is has a relatively low cost and is designed to prevent unintentionally uncoupling (see col. 1, lines 5-8). As it would be advantageous to have latching mechanism that has features that prevents it from be uncoupled and does not have a high cost, it would be obvious to modify Gogan to have the sliding latching mechanism disclosed by Weiss.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

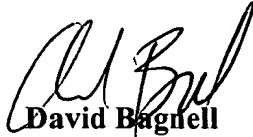
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Giovanna M. Collins whose telephone number is 703-306-5707. The examiner can normally be reached on 6:30-3 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 703-308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gmc


David Bagnell
Supervisory Patent Examiner
Technology Center 3670